

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

)	
In the Matter of)	
Revitalization of the AM Radio Service)	
First Report And Order, Further Notice of Proposed Rule Making and Notice of Inquiry))	MB Docket No. 13-249

To: The Commission

COMMENTS OF AMERICA TELECOMMUNICATIONS GROUP, INC.

America Telecommunications Group, Inc. (“ATG”), pursuant to the FCC Rule Section 1.401, submits its Comments to the above captioned Notice of Proposed Rule Making (“NPRM”) wherein the FCC seeks to investigate possible changes to its rules which would allow AM broadcasters to better serve the public. ATG fully supports the proposals made in the NPRM. The purpose of these comments is to provide specific support for the Commission’s proposal to provide additional flexibility to FM translators to serve as fill-in translators for AM stations.

ATG is the licensee of Class D AM station KZNX operating on 1530 kHz at Creedmoor, Texas. KZNX provides Spanish language programming to Creedmoor and the surrounding communities. ATG also owns FM translator K236AY, Westlake Hills, Texas. In 2012, ATG filed an application to specify KZNX as the primary station for K236AY, a copy of which is attached hereto (BMLFT-20121025ABN). That application is still pending. In the application, ATG demonstrated that K236AY’s 60 dBu contour is contained within both KZNX’s 2 mV/m contour and the KZNX 25-mile radius centered at KZNX’s nighttime transmitter site. Thus, ATG’s use of K236AY as a fill-in translator for KZNX complies with the Commission’s Rules.

Through informal conversations with Audio Division staff, it appears that the Commission has taken the position that the 25-mile radius must be calculated from an AM stations daytime site. Respectfully, this position is arbitrary and not supported by the record. As demonstrated in the K236AY license application, based on a reading of the Commission's docket, use of the nighttime site to calculate the 25-mile radius is consistent with both the purpose of the rule change and the policy reasons for the 25-mile limit. While ATG recognizes that this exact question (from what site to calculate the 25-mile radius) is not raised in this proceeding, changing the rule as proposed in the NPRM would allow ATG and other similarly situated AM stations to better serve the public by providing more flexibility on translator location. For these reasons, ATG respectfully requests that the Commission adopt the proposal that the translator be allowed to be located so that its 1 mV/m would be within the greater of the 25-mile radius of the AM transmitter site or within the 2 mV/m contour (not to exceed 40 miles).

Respectfully submitted,

AMERICA TELECOMMUNICATIONS GROUP, INC.

By: 

Gonzalo Cardenas Barba, Secretary

K236AY License Application

(see attached)

Federal Communications Commission Washington, D.C. 20554 <div style="text-align: center;">FCC 350</div>	Approved by OMB 3060-0404 (April 2001)	FOR FCC USE ONLY
<div style="text-align: center;">APPLICATION FOR AN FM TRANSLATOR OR FM BOOSTER STATION LICENSE</div> <div style="text-align: center;">Read INSTRUCTIONS Before Filling Out Form</div>		FOR COMMISSION USE ONLY FILE NO. BMLFT - 20121025ABN

SECTION I - General Information

1.	Legal Name of the Applicant AMERICA TELECOMMUNICATIONS GROUP, INC.		
	Mailing Address 9570 PAN AMERICAN DRIVE		
	City EL PASO	State or Country (if foreign address) TX	ZIP Code 79927 -
	Telephone Number (include area code) 9158580971		E-Mail Address (if available)
	FCC Registration Number: 0020378337	Call Sign K236AY	Facility Identifier 139268
2.	Contact Representative (if other than Applicant) SCOTT WOODWORTH		Firm or Company Name EDINGER ASSOCIATES PLLC
	Mailing Address 1875 I STREET, NW SUITE 500		
	City WASHINGTON	State or Country (if foreign address) DC	ZIP Code 20006 -
	Telephone Number (include area code) 2027471694		E-Mail Address (if available) SWOODWORTH@EDINGERLAW.NET
3.	If this application has been submitted without a fee, indicate reason for fee exemption (see 47 C.F.R. Section 1.1114): <input type="radio"/> Governmental Entity <input type="radio"/> Noncommercial Educational Licensee/Permittee <input type="radio"/> Other <input checked="" type="radio"/> N/A (Fee Required)		
4.	Facility Information: a. <input type="radio"/> FM Booster <input checked="" type="radio"/> FM Translator b. Community or communities being served: City: WESTLAKE HILLS State: TX		
5.	Purpose of Application <input type="radio"/> Cover construction permit (list original construction permit file number -- starts with the prefix BPFT, or BPFTB): - <input checked="" type="radio"/> Modify an authorized license (list license file number -- starts with the prefix BLFT, BMLFT, BLFTB, or BMLFTB): BLFT-20110616ACB <input type="radio"/> Amend a pending application If an amendment, submit as an Exhibit a listing by Section and Question Number of the portions of the pending application that are being revised. [Exhibit 1]		

NOTE: In addition to the information called for in this section, an explanatory exhibit providing full particulars must be submitted for each question for which a "No" response is provided. See General Instruction I.

Section II - Legal

1.	Certification. Applicant certifies that it has answered each question in this application based on its review of the application instructions and worksheets. Applicant further certifies that where it has made an affirmative certification below, this certification constitutes its representation that the application satisfies each of the pertinent standards and criteria set forth in the application instructions and worksheets.	<input checked="" type="radio"/> Yes <input type="radio"/> No
2.	Conditions. Licensee/Permittee certifies that all terms, conditions, and obligations set forth in the underlying construction permit have been fully met.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 2]
3.	Changed Circumstances. Licensee/Permittee certifies that, apart from changes already reported, no cause or circumstance has arisen since the grant of the underlying construction permit which would cause any statement or representation contained in the construction permit application to be incorrect now.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 3]
4.	Programming. The applicant is the licensee of the primary station or the applicant certifies that written authority has been obtained from the licensee of the primary station whose programming is to be retransmitted.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 4]
5.	Station ready for operation. The applicant certifies that the station is now in satisfactory operating condition and ready for regular operation.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 5]
6.	Station identification. The applicant certifies that it will comply with applicable station identification rules. See 47 C.F.R. Sections 73.1201 and 74.1283.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 6]
7.	Character Issues. Applicant certifies that neither applicant nor any party to the application has or has had any interest in or connection with: a. any broadcast application in any proceeding where character issues were left unresolved or were resolved adversely against the applicant or party to the application; or b. any pending broadcast application in which character issues have been raised.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 7]
8.	Adverse Findings. Applicant certifies that, with respect to the applicant and any party to the application, no adverse finding has been made, nor has an adverse final action been taken by any court or administrative body in a civil or criminal proceeding brought under the provisions of any law related to the following: any felony; mass media-related antitrust or unfair competition; fraudulent statements to another governmental unit; or discrimination.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 8]
9.	Anti-Drug Abuse Act Certification. Applicant certifies that neither applicant nor any party to the application is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.	<input checked="" type="radio"/> Yes <input type="radio"/> No
I certify that the statements in this application are true, complete, and correct to the best of my knowledge and belief, and are made in good faith. I acknowledge that all certifications and attached Exhibits are considered material representations. I hereby waive any claim to the use of any particular frequency as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and request an authorization in accordance with this application. (See Section 304 of the Communications Act of 1934, as amended.)		
Typed or Printed Name of Person Signing GONZALO CARDENAS BARBA		Typed or Printed Title of Person Signing SECRETARY
Signature		Date 10/25/2012

SECTION III - PREPARER'S CERTIFICATION

I certify that I have prepared Section III (Engineering data) on behalf of the applicant, and that after such preparation, I have examined and found it to be accurate and true to the best of my knowledge and belief.

Name GREG SHAPIRO		Relationship to Applicant (e.g., Consulting Engineer) CONSULTING ENGINEER	
Signature		Date 10/25/2012	
Mailing Address 7301 RANCH ROAD 620 NORTH SUITE 155 BUILDING 279			
City AUSTIN		State or Country (if foreign address) TX	Zip Code 78726 -
Telephone Number (include area code) 5123663050		E-Mail Address (if available) GREG@AMFM-RADIO.COM	

WILLFUL FALSE STATEMENTS ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001), AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. CODE, TITLE 47, SECTION 312(a)(1)), AND/OR FORFEITURE (U.S. CODE, TITLE 47, SECTION 503).

Section III - Engineering			
TECHNICAL SPECIFICATIONS			
Ensure that the specifications below are accurate. Contradicting data found elsewhere in this application will be disregarded. All items must be completed. The response "on file" is not acceptable.			
TECH BOX			
1.	Channel: 236		
2.	Effective Radiated Power:	0.099 kW(H)	0.099 kW(V)
3.	Transmitter Power Output:	0.68 kW	
NOTE: In addition to the information called for in this section, an explanatory exhibit providing full particulars must be submitted for each question for which a "No" response is provided.			
CERTIFICATION			
All applicants must complete this section.			
4.	Constructed Facility. The facility was constructed as authorized in the the underlying construction permit.		<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 9]
5.	Special Operating Conditions. The facility was constructed in compliance with all special operating conditions, terms, and obligations described in the construction permit.		<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 10] An Exhibit may be required. Review the underlying construction permit. [Exhibit 11]
6.	Transmitter Power Output. The operating transmitter power output produces the authorized effective radiated power		<input checked="" type="radio"/> Yes <input type="radio"/> No

		See Explanation in [Exhibit 12]
7.	Directional Antenna. The facility does not use a directional antenna or the antenna is mounted in accordance with the specific instructions provided by the antenna manufacturer and is oriented in the proper direction.	<input checked="" type="radio"/> Yes <input type="radio"/> No See Explanation in [Exhibit 13]

PREPARER'S CERTIFICATION ON SECTION 3 MUST BE COMPLETED AND SIGNED.

Exhibits

Exhibit 4
Description: EXHIBIT 4

THE APPLICANT IS FILING THIS APPLICATION SOLELY FOR THE PURPOSE OF REQUESTING AUTHORITY TO CHANGE THE PRIMARY STATION TO STATION KZNX(AM). SEE ATTACHED. THE APPLICANT IS NOT REQUESTING ANY TECHNICAL CHANGES TO K236AY'S TECHNICAL FACILITIES.

Attachment 4

Description
<u>Legal Narrative</u>

America Telecommunications Group, Inc. (“ATG”) is the licensee of FM translator Station K236AY, Westlake Hills, Texas. ATG is also the proposed assignee of Station KZNX(AM), Creedmoor, Texas (*see* BAL-20120629ACP) and is currently operating KZNX pursuant to a local marketing agreement. In order to provide a better quality and more consistent signal to the core of KZNX’s service area, ATG desires to rebroadcast KZNX on K236AY.

The Commission’s rules require that, to qualify as a fill-in translator for an AM station, a translator’s 60 dBu contour must be contained within the lesser of the 2 mV/m daytime contour of the AM station and a 25-mile radius centered at the AM transmitter site.¹ Exhibit 1 attached hereto, depicts (i) the licensed 60 dBu contour of K236AY, (ii) the 2 mV/m daytime contour of KZNX, (iii) the KZNX 25-mile radius centered at KZNX’s nighttime transmitter site, and (iv) the KZNX 25-mile radius centered at KZNX’s daytime transmitter site. As the map shows, K236AY’s 60 dBu contour is contained within both KZNX’s 2 mV/m contour and the KZNX 25-mile radius centered at KZNX’s nighttime transmitter site. Thus, ATG’s use of K236AY as a fill-in translator for KZNX complies with the Commission’s Rules.

The fact that K236AY’s 60 dBu contour is not entirely contained within the KZNX 25-mile radius centered at KZNX’s daytime transmitter site should not exclude K236AY from rebroadcasting KZNX. Neither the Commission’s Rules, nor the Commission’s docket allowing AM stations to be rebroadcast on FM translators, specify that the 25-mile radius must be centered at an AM station’s daytime site. Rather, both the rules and the docket state that the 25-mile radius should be centered at the *AM transmitter site*.² In other words, the Commission was silent on which transmitter site could be used to calculate the 25-mile radius.

Based on a reading of the Commission’s docket, use of the nighttime site to calculate the 25-mile radius is consistent with both the purpose of the rule change and the policy reasons for the 25-mile limit. First, the purpose of the rule change. The Commission modified its translator rules to permit AM stations to rebroadcast on FM translators to ameliorate *both* nighttime and daytime interference issues. Specifically, the Commission noted that “interference to AM signals occurs during all hours of the day from various sources” and it expects “such interference to increase in the future, particularly as sources of manmade interference continue to

¹ *See* 47 C.F.R. §§ 74.1201(g), (j).

² *Id.* *See also*, *Amendment of Service Eligibility Rules for FM Broadcast Translator Stations*, 24 FCC Rcd 9642, ¶¶ 1, 36-38 (2009) (“*Translator Report and Order*”).

proliferate.”³ Calculating the 25-mile radius from the nighttime site (as opposed to the daytime site) is consistent with this purpose because it improves interference issues from the nighttime site. Further, as depicted on Exhibit 1, approximately 75% of the K236AY 60 dBu contour is within the 25-mile radius from the KZNX daytime site. Thus, by calculating the 25-mile radius from the nighttime site, the use of K236AY improves both KZNX’s nighttime and daytime signal.

The use of the nighttime site to calculate the 25-mile radius is also consistent with the policy reason for the 25-mile limit. The Commission imposed a 25-mile limit because it was concerned about AM stations with extremely large 2 mV/m daytime contours being able to serve fringe areas that may be part of another market.⁴ The use of the nighttime site does not undercut this policy goal for the simple fact that there is still a 25-mile limit on the 60 dBu contour of the translator. Thus, even a high-powered 500,000 watt station would still be limited to using a translator that is within a 25-mile radius of either of its transmitter sites. In the instant case, as depicted on Exhibit 1, the 25-mile contour from either the KZNX nighttime or daytime site both limit K236AY from serving the fringe areas of the KZNX service area.⁵ This fact would still be true even if KZNX were a high-powered 500,000 watt station (KZNX is only a 10,000 watt station).

For the reasons discussed above ATG believes that calculating the 25-mile radius from an AM station’s daytime or nighttime site is consistent with the Commission’s rules and the purpose and policy reasons behind such rules. Nevertheless, out of an abundance of caution, if necessary, ATG respectfully requests a waiver to permit it to rebroadcast KZNX(AM) on K236AY (as currently licensed) due to the unique factors associated with KZNX’s transmitter sites. More specifically, the KZNX daytime and nighttime transmitter sites are 18.5 miles apart. See Exhibit 1. ATG is not aware of any other station with transmitter sites this far apart. ATG has explored other options, including reducing K236AY’s power, installing a directional antenna, changing tower sites, and moving KZNX’s daytime site to its nighttime site. The first two options (reducing power or installing a directional antenna) would significantly reduce the

³ See *Translator Report and Order*, 24 FCC Rcd at ¶ 3.

⁴ *Id.* at ¶ 38.

⁵ Indeed, remaining within the 25-mile radius of the nighttime site restricts the translator to an area that defines the core of the 2 mV/m contour. See *Translator Report and Order*, 24 FCC Rcd at ¶ 38 (to ensure that fill-in cross service translators are used in the AM station’s core market area).

service area of K236AY. More specifically, K236AY would have to reduce power to 6 watts in order for its 60 dBu contour to fit within the KZNX 25-mile radius centered at KZNX's daytime transmitter site. Utilizing a directional antenna would require K236AY to reduce power to 34 watts. Both of these options would result in significantly less service to the public. Regarding the third option (moving tower sites), K236AY has a very small area to locate due to the presence of co-channel stations KGSX to the southwest and KNDE to the northeast. Finally, ATG has explored moving the KZNX daytime site to its nighttime site, but this option is prohibitively expensive and would significantly reduce the daytime coverage of KZNX(AM).

Exhibit 1

